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Class-action suit calls for buyout

By Gary Garton
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PICHER, Okla. - The city of Picher and the Picher-Cardin School District have joined a class-action suit asking the federal court to order six companies that previously were associated with the former lead-mining field to, among other things, pay for a relocation program for area residents.

Nine individual Picher residents are also named as plaintiffs in the suit on file in U.S. District Court at Tulsa. Law firms in McAlester, New York City and Overland Park, Kan., are handling the suit.

Picher is in the Tar Creek Superfund Site, which has been the target of a federal lead cleanup for many years. A proposal for a federal buyout of the communities of Picher and Cardin are pending in Congress.

The suit is separate from those filed last year by eight Picher area families against the mining companies, through a Tulsa law firm.

John Sparkman, a member of the Picher-Cardin Board of Education, said Wednesday that the board voted at its last meeting to join the class-action suit, in which the city already had filed its claim.

The suit seeks damages against the mining companies equal to the amount of the loss of value of the plaintiffs' properties, plus attorney fees and costs.

More significantly, it asks the court to set up an "independently supervised medical monitoring program" for the benefit of all class members. It also asks the court to "establish an independently supervised relocation program that will ensure the residents of the contaminated properties will be provided support and financial assistance in relocating away from the contaminated areas."

A cleanup plan for the Tar Creek site being put forward by U.S. Rep. Brad Carson, D-Okla., includes a buyout of Picher and Cardin properties to move residents away from the scene of mountains of chat, the flint-rock waste left after the lead and zinc ores were milled out.

Bob Walker, superintendent of Picher-Cardin schools, said at a meeting Wednesday that while his name appears on the suit on behalf of the school district and Board of Education, he does not see a buyout plan as the best way to serve the area's children.

"We have students with very definite learning disabilities we feel are linked to high blood-lead levels," he said. "We also have a unique teaching staff who are completely familiar with these children's special needs, and have dealt with them and continue to find new ways to help them learn.

"If you take these kids and scatter them to the four winds, then they're not going to find the same educational environment in other districts, and their educational progress will suffer for that."

Dr. Mark Osborn, a physician with Integris Baptist Regional Health Center in Miami who is conducting a study of infant blood-lead levels for the Harvard University School of Medicine, said at the same meeting that he sees a buyout as a prudent approach.

"More and more, we're hearing the people who understand this situation say there is no practical way, with current technology, to make this area a safe habitat for humans," he said. "I think the only logical, rational conclusion you can reach is that people have to be moved out of here."

Sparkman, who has conducted a three-year campaign supporting a buyout, said he thinks the program should include relocating the town and its infrastructure to another site, rather than asking residents to completely leave the area.

The class-action lawsuit also names as plaintiffs Picher Mayor Sam Freeman, and residents Betty Jean Cole, John

Frazier, Patsy Huffman, Edwin Kerley, Patricia Kerley, Larry Olds, H.C. Baughman, Rayma Grimes and Susie Stone.

Defendants are ASARCO Inc., Blue Tee Corp., Goldfields Mining Corp., NL Industries Inc., Childress Royalty Co. and Doe Run Corp.

The mining companies have 30 days in which to file an initial response to the suit. Responses they have filed in the previous individual suits claim no liability for lead contamination because state-of-the-art mining techniques were used, and the hazards were not known or recognized at the time.

Sparkman said he hopes the suit ultimately will force the mining companies to endorse the U.S. Department of the Interior as a co-defendant, because of the American Indian tribal land involved. That, in turn, would give the plaintiffs access to a larger source of money for damages, and the medical monitoring and relocation activities, he said.